

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

ANTHONY DESTEFANO,

Plaintiff,

VS.

KILOLO KIJAKAZI,
 Acting Commissioner of Social Security,

Defendant.

No. 2:22-cv-01338-DB

**STIPULATION FOR THE AWARD AND
PAYMENT OF ATTORNEY FEES AND
EXPENSES PURSUANT TO THE EQUAL
ACCESS TO JUSTICE ACT, 28 U.S.C.
§ 2412(d), AND COSTS PURSUANT TO 28
U.S.C. § 1920; AND ORDER**

1 IT IS HEREBY STIPULATED by and between the parties through their undersigned
2 counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees and expenses
3 in the amount \$8,400.00 (EIGHT THOUSAND FOUR HUNDRED dollars and ZERO cents)
4 under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and costs in the amount of
5 \$402.00 (FOUR HUNDRED TWO dollars and ZERO cents) under 28 U.S.C. § 1920. This
6 amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel
7 in connection with this civil action, in accordance with 28 U.S.C. §§ 1920; 2412(d).

8 After the Court issues an order for EAJA fees to Plaintiff, the government will consider
9 the matter of Plaintiff's assignment of EAJA fees to counsel, if any. Pursuant to *Astrue v. Ratliff*,
10 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability to honor any assignment
11 will depend on whether the fees are subject to any offset allowed under the United States
12 Department of the Treasury's Offset Program. After the order for EAJA fees is entered, the
13 government will determine whether they are subject to any offset.

14 Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines
15 that Plaintiff does not owe a federal debt, then the government shall cause the payment of fees,
16 expenses and costs to be made directly to counsel, pursuant to the assignment executed by
17 Plaintiff. Any payments made shall be delivered to counsel. Additionally, any payment of costs
18 under 28 U.S.C. § 1920 may be made either by electronic fund transfer (ETF) or by check.

19 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA
20 attorney fees, and does not constitute an admission of liability on the part of Defendant under the
21 EAJA or otherwise. Payment of the agreed amount shall constitute a complete release from, and
22 bar to, any and all claims that Plaintiff and/or counsel including counsel's firm may have relating
23 to EAJA attorney fees or costs in connection with this action.

24 This award is without prejudice to the rights of counsel and/or counsel's firm to seek
25 Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause
26 provisions of the EAJA.

27 The Parties also request that Plaintiff's Motion for the Award of Attorney's Fees
28 (Doc. No. 21) be withdrawn as moot.

1 Date: January 2, 2024

JESSE S. KAPLAN, ATTORNEY AT LAW

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3 By: /s/ Caspar Chan for Jesse S. Kaplan*

4 JESSE S. KAPLAN

5 *Authorized by e-mail on January 2, 2024

Attorney for Plaintiff

6 Date: January 2, 2024

PHILLIP A. TALBERT

7 United States Attorney

8
9 By: /s/ Caspar Chan

10 CASPAR CHAN

11 Special Assistant United States Attorney

Attorneys for Defendant

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13 **ORDER**

14 Based upon the parties' Stipulation for the Award and Payment of Equal Access to Justice
15 Act Fees, Expenses, and Costs, **IT IS HEREBY ORDERED** that:

16 1. Fees and expenses in the amount of \$8,400.00 as authorized by 28 U.S.C. § 2412, and
17 costs in the amount of \$402.00 as authorized by 28 U.S.C. § 1920, be awarded subject to the terms
18 of the Stipulation; and

19 2. Plaintiff's December 16, 2023 motion for attorney's fees (ECF No. 21) is denied as
20 having been rendered moot.

21 DATED: January 2, 2024

/s/ DEBORAH BARNES

22 UNITED STATES MAGISTRATE JUDGE